

STATE OF CALIFORNIA  
Budget Change Proposal - Cover Sheet  
DF-46 (REV 08/15)

Fiscal Year 2016/17	Business Unit 3360	Department California Energy Commission	Priority No.
Budget Request Name 3360-001-BCP-DP-2016-A1		Program <b>ENERGY RESOURCES CONSERVATION</b>	Subprogram <b>BUILDING AND APPLIANCES</b>

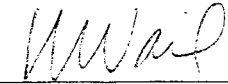


Budget Request Description  
Title 20 Appliance Efficiency Standards Compliance Assistance and Enforcement Program

Budget Request Summary

This proposal requests two permanent positions to support the Title 20 Appliance Efficiency Standards Compliance Assistance and Enforcement Program. Senate Bill 454 (Pavley, Chapter 591, Statutes of 2011) authorized the Energy Commission to establish an administrative enforcement process for violations of the Energy Commission's appliance efficiency standards, with penalties up to \$2,500 per violation. The requested staff resources will conduct investigations to uncover violations leading to penalties levied through a formal administrative adjudication, mutual settlement or litigation, and conduct compliance assistance, outreach and education to stakeholders on how to comply with the Energy Commission's regulations. Without these additional staff resources, the Energy Commission will not be able to adequately enforce these energy efficiency standards which are needed to meet the Global Warming Solutions Act authorized by Assembly Bill 32 (Nuñez, Chapter 488, Statutes of 2006). Total funding request for this proposal is \$275,000 from the Appliance Efficiency Enforcement Subaccount (Fund 3205).

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date
For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance. <input type="checkbox"/> FSR <input type="checkbox"/> SPR Project No. Date:		

If proposal affects another department, does other department concur with proposal? ☐ Yes ☐ No  
*Attach comments of affected department, signed and dated by the department director or designee.*

Prepared By	Date	Reviewed By 	Date 3/24/16
Department Director 	Date 3-24-16	Agency Secretary 	Date 3/24/16

Department of Finance Use Only

Additional Review: ☐ Capital Outlay ☐ ITCU ☐ FSCU ☐ OSAE ☐ CALSTARS ☐ Dept. of Technology

BCP Type: ☐ Policy ☐ Workload Budget per Government Code 13308.05

PPBA	Original Signed By: Ellen Moratti	Date submitted to the Legislature APR 01 REC'D
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## Analysis of Problem

### A. Budget Request Summary

This proposal requests two permanent positions to support the Title 20 Appliance Efficiency Standards Compliance Assistance and Enforcement Program. Senate Bill 454 (Pavley, Chapter 591, Statutes of 2011) authorized the Energy Commission to establish an administrative enforcement process for violations of the Energy Commission's appliance efficiency standards with penalties up to \$2,500 per violation. The requested staff resources will conduct investigations to uncover violations leading to penalties levied through a formal administrative adjudication, mutual settlement or litigation, and conduct compliance assistance, outreach and education to stakeholders on how to comply with the Energy Commission's regulations. Without these additional staff resources, the Energy Commission will not be able to adequately enforce these energy efficiency standards which are needed to meet the Global Warming Solutions Act authorized by Assembly Bill 32 (Nuñez, Chapter 488, Statutes of 2006). Total funding request for this proposal is \$275,000 from the Appliance Efficiency Enforcement Subaccount (Fund 3205).

### B. Background/History

Under the Warren-Alquist Act, the Energy Commission regularly prescribes appliance efficiency standards for appliances that consume a significant amount of energy or water statewide (Public Resources Code § 25402(c)). These standards save consumers money through reduced energy costs over the lifetime of the more efficient product. For example, battery charger standards, when fully implemented, are estimated to save nearly 2,200 gigawatt hours each year – or enough energy to power nearly 350,000 homes. This saves California ratepayers a combined \$306 million each year, and is equivalent to avoiding 1 million metric tons of carbon dioxide. However, these estimates can only be fully realized if manufacturers and retailers comply with the standards.

SB 454 and its implementing regulations authorized the Energy Commission to establish an administrative enforcement process for violations of the appliance efficiency standards. The Energy Commission may impose penalties up to \$2,500 per violation.

A recent market survey conducted by the Energy Commission shows that of a sample search of 4,000 models of appliances, 60 percent were not in the Energy Commission database and subsequently cannot legally be sold or offered for sale in California. This is a significant level of noncompliance that the Energy Commission currently does not have sufficient resources to address completely (for example, multiple companies are unlawfully selling the products, but the Energy Commission has resources to enforce against only a few of these companies). This creates an unfair business environment where compliant manufacturers are being out-competed by noncompliant competitors. Additionally, in 2015, 14 electrical appliances were procured for testing at the Energy Commission's contract test laboratory and, to date, 10 have been tested with 10 failing. All of the failed appliances are small battery chargers used in a myriad of applications. These 10 failing appliances are being developed into enforcement cases and it is anticipated that most, if not all, will result in penalty assessments.

### Resource History

Program Budget	PY - 1	PY	CY
Authorized Expenditures	\$175k	\$412k	\$492k
Actual Expenditures	\$175k	\$233k	
Revenues	0	0	\$1m
Authorized Positions	1	3	3
Filled Positions	1	2	3
Vacancies	0	1	0

## Workload History

Workload Measure	PY - 1	PY	CY
Compliance seminars	0	7	19 (1,200 attendees)
Products tested at lab	0	5	42
Cases under investigation	4	3	17
Cases closed/settled	2	3	2

## C. State Level Considerations

Appliance efficiency standards are an increasingly critical component in meeting the state's greenhouse gas reduction and clean energy goals. The Energy Commission recently released its draft Action Plan to implement Assembly Bill 758 (Skinner, Chapter 470, Statutes of 2009), which requires the Energy Commission to develop a comprehensive program to achieve greater energy efficiency in the state's existing buildings. Reducing the amount of energy consumed by appliances that are plugged into those buildings (called "plug-loads") is one of the key strategies that the Energy Commission has identified in its draft Action Plan for increasing existing building efficiency. Reducing plug-loads through energy efficiency standards will also play a significant role in achieving the Governor's State of the State goals of doubling the efficiency in existing buildings, one of the five ways that the Governor has identified to achieve deep greenhouse gas reductions. Finally, the Governor's emergency Executive Order in response to the drought has increased the urgency with which the Energy Commission has pursued efficiency in water-consuming appliances such as faucets and showerheads.

## D. Justification

On May 12, 2015, the Energy Commission adopted regulations to implement SB 454 regulations which took effect July 1, 2015. The enforcement authority authorized by SB 454 is critical to ensure that manufacturers and retailers comply with the Energy Commission's appliance efficiency standards so the State of California and consumers can receive the energy savings and associated greenhouse gas reductions intended by the standards. The regulations establish a formal administrative process for levying fines, although a settlement process may also be used. Such processes require significant time for investigation and case-building. Data from sister agencies (e.g. California Air Resources Board) show that, on average, these types of enforcement actions take approximately 200 hours to resolve once a fully operational enforcement program is up and running. Currently, there are 17 open enforcement investigations and this will double to 34 or beyond by next fiscal year at the current rate of testing. If additional positions are not authorized, the number of pending cases is projected to increase, resulting in a significant case backlog.

Since the SB 454 regulations have been in effect, the Energy Commission has successfully closed one case through the settlement process, which yielded a \$1 million penalty, a consumer rebate program, and required an entire suite of products be redesigned to be compliant with the appliance efficiency standards. Additional staff are necessary to achieve similar results going forward which will yield a higher compliance rate. As previously mentioned, in 2015, 14 electrical appliances were procured for testing at the Energy Commission's contract test laboratory and, to date, 10 have been tested with 10 failing. All of the failed appliances are small battery chargers used in a myriad of applications. These 10 failing appliances are being developed into enforcement cases and it is anticipated that most, if not all, will result in penalty assessments. More products are in the queue to be tested and more failures are anticipated, resulting in a steady penalty revenue stream for the foreseeable future. Additionally, most of the tested products are not registered in the Energy Commission's database and marked (labeled) in accordance with the regulations. These are additional violations that carry penalties.

Currently, the Energy Commission has three staff dedicated to Title 20 energy efficiency compliance assistance and enforcement efforts. Approving an Energy Commission Specialist III to serve as the program lead to manage the compliance assistance, outreach and education program and the market survey contract, and a second Energy Commission Specialist III to serve as the program lead to manage the enforcement program and energy efficiency test lab contract will ensure that the Energy Commission can use its new administrative penalty authority to achieve increased compliance with its appliance efficiency regulations. This, in turn, will realize the energy savings from the Energy Commission's appliance efficiency standards and protect consumers from the energy losses from noncompliant products.

The new enforcement authority provides an opportunity for the Energy Commission to conduct education and outreach to manufacturers and retailers who are required to comply with the appliance efficiency regulations. Similarly, the threat of an administrative penalty has brought forward an increasing number of manufacturers and retailers who seek help in ensuring that they comply with the regulations. Education, outreach and compliance assistance typically use fewer resources while achieving greater compliance with the regulations than formal enforcement actions and are therefore the preferred approach over bringing an enforcement case.

One new position will be the lead for investigation and enforcement cases related to alleged violations of the appliance efficiency regulations, and will have a high level understanding of the technical aspects of the federal and state efficiency regulations, test methodologies, and enforcement case handling process. This lead enforcement role will be responsible for identifying targets for investigation, conducting investigations, drafting enforcement related correspondence, coordinating with legal and appliance program technical staff, and conducting settlement negotiations. With the approval of this position, approximately nine more cases could be closed each fiscal year. It will also be responsible for establishing and managing appliance testing and evidence procurement contracts, maintaining the enforcement database and other tracking tools, training and assisting staff, establishing effective case handling processes, and will serve as a liaison between the appliances unit and the enforcement unit on matters that impact enforcement cases. This lead role will be critical as the program grows to establish effective, consistent processes for enforcement investigations, to maintain collaboration with the appliances unit, to handle all IT system needs, to report case statistics and data to management, and to ensure consistent turnover of enforcement cases generating greater appliance efficiency compliance.

The second new position will be the lead staff person for compliance assistance and outreach, and will have a high level understanding of the technical aspects of federal and state efficiency regulations, test methodologies, and the certification compliance process. This role will primarily be responsible for interacting with stakeholders, advocacy groups, and the regulated community to answer technical questions and promote awareness of California's appliance efficiency regulations and enforcement program. This role will also be responsible for establishing an education/outreach plan, outreach materials, and maintaining the enforcement website to ensure outreach materials are readily available to the public. Outreach will be done through webinars, trade shows, seminars, workshops, public presentations, email, printed materials, website updates, factsheets, press releases, and phone calls. This role will also establish and manage a new market survey contract to identify statewide compliance with appliance certification requirements, and will analyze market survey data to compile compliance statistics and identify areas where outreach is needed.

### **E. Outcomes and Accountability**

With the approval of two new positions, the Energy Commission will pursue more enforcement cases, collect monetary penalties, increase compliance with efficiency standards, and provide more education and outreach to the regulated community. The result will be measured in terms of increased compliance with appliance efficiency certification requirements identified by the market survey contract, a reduction in tested appliances failing to meet efficiency standards, and an increase in the number of enforcement investigations and cases closed.

## Analysis of Problem

Projected Outcomes

Workload Measure	CY	BY	BY+1
Compliance seminars	19	27	38
Products tested at lab	42	63	84
Investigations	17	34	34
Cases closed	2	11	11

Accountability will be tracked through the Energy Commission's annual work-plan process which identifies goals and objectives, outcomes and deliverables, and milestones and schedules. Regular meetings with management will allow for status reports, direction and feedback, and adjustments as needed.

Newly authorized positions will be established in the appropriate program/element and office, and expenditures will be accounted for under unique accounting units and program cost accounts.

### F. Analysis of All Feasible Alternatives

#### 1. Approve this proposal

Pros: Authorizing two additional positions will provide the Energy Commission with the necessary resources to build a solid compliance assistance and enforcement program utilizing its new administrative penalty authority to achieve increased compliance with appliance efficiency regulations. Increased compliance with the appliance efficiency standards will result in energy savings and greenhouse gas reductions allowing California to meet its energy and climate change policy goals. These energy savings will protect consumers from the energy losses from noncompliant products sold by noncompliant manufacturers and retailers and create a level playing field for manufacturers who are compliant.

Con: Requires additional resources.

#### 2. Approve one position

Pros: Authorizing one position will provide staff resources to assist with implementing the new enforcement process which includes outreach and education, and pursuing penalties. With the addition of one position, approximately nine more cases could be closed each fiscal year.

Con: The Energy Commission will not have sufficient resources to follow-up on enforcement leads while building a new enforcement process and providing education and outreach to stakeholders.

#### 3. Do nothing

Pro: No appropriation is needed to fund the additional staffing resources.

Cons: The Energy Commission will be unable to successfully build a robust enforcement program with the new administrative penalty authority provided under SB 454. Existing staff will continue to handle minimal enforcement cases, opening the Energy Commission up to industry, public and advocacy organizations complaints about unfair competition and products being sold that are noncompliant. Without the additional resources, the Energy Commission will be unable to undertake meaningful enforcement actions, allowing existing rates of noncompliance to continue in the market, which translates to lost energy savings and increased greenhouse gas emissions. This will make it challenging for California to meet its energy and climate change policy goals.

**G. Implementation Plan**

Upon approval of this proposal, the Energy Commission will recruit to fill the positions as follows.

1. Develop duty statements. (June 2016)
2. Begin recruitment for new positions. (July 2016)
3. Conduct interviews and fill vacancies. (August-September 2016)
4. Provide orientation, training and education activities for new staff. (September-October 2016)
5. Provide work assignments commensurate with the classification and function. (November 2016)

**H. Supplemental Information**

N/A

**I. Recommendation**

The recommended alternative is #1: Authorize two new permanent positions to effectively implement the new enforcement process under SB 454.

Department of Finance  
2016-17  
Finance Letter Worksheet

3360-001-3205-2016

DEPT: Energy Resources Conservation and  
Development Commission  
STATE OPERATIONS

Prop 98: N

3360-101-BCP-BR-2016-A1

Title 20 Appliance Efficiency Standards Compliance Assistance and  
Enforcement Program

**Proposal Summary**

Add resources to support the Title 20 Appliance Efficiency  
Standards Compliance Assistance and Enforcement Program  
authorized in Chapter 591, Statutes of 2011.

**Category Changes**

	Positions	Whole Dollars
Salaries and Wages	2.0	159,000
Staff Benefits	0.0	68,000
Operating Expenses and Equipment	0.0	48,000
<b>Total Category Changes</b>	<b>2.0</b>	<b>\$275,000</b>

**Program Changes**

2385 Energy Resources Conservation	2.0	275,000
2385010 Building and Appliances	2.0	275,000
<b>Total Program Changes</b>	<b>2.0</b>	<b>\$275,000</b>

**Fund Changes**

Amount Funded by 3360-001-3205-2016	2.0	275,000
<b>Net Impact to Item</b>	<b>2.0</b>	<b>\$275,000</b>

ASM CONSULTANT: CG

SEN CONSULTANT: CBF

DOF ANALYST: Kathy Madison

LAO DIRECTOR: BB

SCENARIO: April Revision

VERSION: Finance Working

RUN DATE: Mar 24, 2016 11:17 AM

**Title 20 Appliance Efficiency Standards Compliance Assistance and Enforcement  
Program  
Workload Documentation**

**Energy Commission Specialist (ECS) III – Compliance Assistance & Outreach**

The ECS III will be the lead staff person for compliance assistance and outreach responsible for interacting with stakeholders, advocacy groups, and the regulated community to answer technical questions and promote awareness of California's appliance efficiency regulations and enforcement program.

**Develop outreach and education plans and strategies**

The ECS III will develop outreach and education plans and strategies to reach stakeholders of the appliance efficiency standards to encourage compliance.

**200 HOURS**

**Develop and deliver education materials to stakeholders**

The ECS III will develop targeted educational training material to deliver to stakeholder audiences throughout the state in person and virtual settings related to the compliance and enforcement of the appliance efficiency standards. The ECS III will analyze complex engineering questions and provide comprehensive explanations to industry stakeholders. The ECS III will also develop, distribute, and refresh outreach material, including but not limited to: information about appliance efficiency database certification processes; presentations on enforcement; contributions to industry publications; easily understood factsheets and information graphics; brochures and pamphlets; website updates; user-friendly Frequently Asked Questions (FAQs); and other educational information.

**600 HOURS**

**Ongoing stakeholder engagement**

The ECS III will alert and educate industry stakeholders about new programs, requirements, and compliance tools for the appliance efficiency standards. The ECS III will also communicate directly with stakeholders to answer technical questions about appliance efficiency compliance and enforcement in easily understood terms. The ECS III will work with the regulated community to achieve greater understanding of the appliance efficiency compliance requirements and the enforcement process.

**1,000 HOURS**

**Total 1,800 HOURS**



## **Energy Commission Specialist (ECS) III – Enforcement**

The ECS III will be the lead staff person for investigation and enforcement cases related to alleged violations of the appliance efficiency regulations.

### **Develop enforcement plans/strategies, and contract management**

The ECS III will work with Appliance Efficiency Office staff, management, and Energy Commission attorneys to identify targets for investigation (e.g., retailers and manufacturers). This includes use of leads submitted to the Energy Commission by third parties, field work, use of the market survey results generated by the Energy Commission's outside consultant(s), and internal development of leads. The ECS III will establish and manage a testing contract for testing targeted appliances to determine compliance with energy efficiency standards.

**300 HOURS**

### **Conduct enforcement investigations, settlements and litigation**

The ECS III will conduct investigations of alleged violations of the appliance efficiency regulations and gather evidence through internet searches, field work, testing, and communications with market participants. The ECS III will contact potential violators through telephone calls, meetings, and written correspondence. The ECS III will coordinate with legal and appliance program technical staff to draft enforcement related correspondence, perform settlement negotiations and draft settlement documents. The ECS III will develop and maintain suitable record-keeping methods and files (electronic and hardcopy) and mentor staff in their proper use; prepare documents for administrative and judicial processes (such as interrogatories and written testimony); assist attorneys with facts for incorporating in briefs; and testify before Energy Commission adjudicatory hearings and possibly at court hearings. The ECS III will also maintain the enforcement case database and other tracking tools.

**1,500 HOURS**

**Total 1,800 HOURS**

# Executive Office

Current and Proposed for  
FY 2016-17

